

Transcript Prepared by Clerk of the Legislature Transcribers Office
Business and Labor Committee May 4, 2023
Rough Draft

RIEPE: I'm Merv Riepe. I happen to be the Chairman of the Business and Labor Committee. We have a quorum. And I'm going to ask our members, starting with Senator McKinney here to introduce themselves and say whatever you choose.

McKINNEY: All right. Good afternoon. Senator Terrell McKinney, District 11, north Omaha.

RIEPE: Thank you.

MICAH CHAFFEE: I'm Micah Chaffee, research analyst for Business and Labor Committee.

IBACH: Teresa Ibach, District 44, which is eight counties in southwest Nebraska.

HUNT: I'm Megan Hunt. I represent District 8 in the northern part of midtown Omaha.

HANSEN: Ben Hansen, District 16: Washington, Burt, Cuming, and parts of Stanton County.

PAYTON COULTER: And I'm Payton Coulter, committee clerk.

RIEPE: OK. And today, we're going to be so efficient we don't have to have any pages that are backing us up. So before each hearing, all bills will be heard will be posted outside of the hearing room. And the senator introducing the proposed legislation, which will be in this case, we have the one issue that's in front of us and that is going to be AM1354 to LB282 and I will be introducing or opening on that particular amendment. During that period of time, I will surrender the chair and our very competent Vice Chair, Senator Ibach, will be chairing the committee hearing. The Introducing senator will have an unlimited amount of time, but I assure you I will be brief in terms of the introduction in the interest of time and efficiency. For purpose of the recorded record, we ask for each presenter to state one's name, spell it, and state who you represent for purposes of the record. Senators who serve on this committee are encouraged to ask questions for clarification. That said, the presenter and those testifying are not allowed to ask questions by the senators or to the senators serving on this committee. In the Business and Labor Committee, we will use the light system to promote maximum engagement of those wishing to express suggestions or opposition-- or support or opposition. The light system will generally be three minutes with a

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green light; the one minute with a yellow light. With the red light, you're asked to conclude. In the event that we feel that you can convince us that you have a particular point you want to make, you may get some help from the committee that will give you some extra time. So that's a little cheater on how we do things. The three-minute rule may change. It's not going to change today. We will recognize opponents, proponents and neutral presenters. We will also acknowledge letters received from concerning parties, and those letters will also include any emails we may have received. Should you have handouts you wish to share, please share ten copies or ask our very efficient committee clerk to make some copies. Hopefully we won't have to do that, but the clerk will then distribute any and all handouts to committee senators. As a committee, we will work diligently to give a fair and full hearing. We will make every effort to accommodate any special needs. At this hearing, we ask you to be respectful of the process and to one another. And with that, I am going to turn the temporary chairmanship over to Senator Ibach.

IBACH: Thank you, Senator Riepe. You're welcome to open.

RIEPE: Thank you, scoot around. Thank you, Chairman Ibach. The Business and Labor Committee holds the responsibility of handling the state claims bill. State claims bills are brought by the state for each year's legislative session and may consist of miscellaneous tort, indemnification, workers' compensation, and state insurance claims. Claims against the state pass through the State Risk Manager's Office within the Department of Administrative Services. The dollar amounts in the state claims will have already been agreed to settlements or court judgments reviewed and litigated by the Attorney General's Office or relevant state agency and not determined by me or the Business and Labor Committee. AM1354 includes four additional claims that have recently become available for approval by the Legislature. General Mike Hilgers, Attorney General for the state of Nebraska, and Bo Botelho, general counsel for the Nebraska Department of Health and Human Services, and Allen Simpson, Risk Manager for the Department of Administrative Services, will provide testimony on the various state claims before us today. Thank you. This concludes my opening for AM1354 to LB282. Thank you, Chairman.

IBACH: Thank you very much. Are there any questions for the senator?

RIEPE: Thank you very much.

IBACH: Thank you. We'll take proponents.

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ALLEN SIMPSON: Chairman Riepe, members of the Business and Labor Committee, good afternoon. My name is Allen Simpson, A-l-l-e-n S-i-m-p-s-o-n, and I am the Risk Manager for the state of Nebraska. LB282 and AM1354 provide for the payment of claims against the state. I'll briefly, briefly provide an overview of the claims process in reference to claims within AM1354. Tort miscellaneous indemnification in the line of duty and contract claims are filed with the Office of Risk Management. Claims in the amount of up to \$5,000 can be approved directly by the State Risk Manager. Any claim over \$5,000 and up to \$50,000 must be approved by the State Claims Board. Claims totaling more than \$50,000 must be approved by the Legislature and thus are added to the claims bill. In addition, the Attorney General's Office has the authority to settle claims against the state of Nebraska, which then must be approved by the Legislature if the settlement is over \$100,000 for workers' compensation and over \$50,000 for all other claims. That's a quick summary of how the claims make it to the claims bill. AM1354 adds four claims that have not been previously considered by the committee, which will be addressed as part of the hearing today. I will now provide a brief recap of the line of duty claim, and then a representative will be here to speak on the other claims submitted in this amendment. In 2021, the Legislature enacted LB255 to adopt the In Line of Duty Compensation Act that created a benefit for the first responders who died in the line of duty. Last year, the Legislature-- Legislature passed LB717 raising an amount of the compensation to \$250,000. Included in LB282 and AM1354 are the first beneficiaries of the line of duty claims. Specific to AM1354, the State Claims Board reviewed and approved the claim of the beneficiaries of first responder John Trumble, who passed due to line of duty death. Senators, if there are no questions on the most recent in line of duty claim, then the speakers following me will address the additional claims in AM1354. Phoebe Gydesen from the Attorney General's Office will speak on the workers' compensation claim for Richard Rulla. After her testimony, Bo Botelho from the Department of Health and Human Services will speak on the Wipro claim 2019-19267. Following Mr. Botelho, Attorney General Michael Hilgers will speak on the Nebraska Public Employees Retirement Systems state trooper claim. Thank you for your time and I am happy to answer any questions.

IBACH: Thank you very much. Are there questions from the committee? Seeing none, thank you very much. If you'd state and spell your name.

PHOEBE GYDESEN: Good afternoon, Vice Chair Ibach and members of the committee. My name is Phoebe Gydesen, That's P-h-o-e-b-e, Gydesen is G-y-d-e-s-e-n. I'm an Assistant Attorney General in the Attorney

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General's Office, and I work in the civil litigation bureau. I also serve as legal advisor to the State Claims Board. As Mr. Simpson noted, LB282 was amended by AM1354, with AM1354 becoming the bill. Of the four new claims that are being added, one is in line of duty claim, an indemnification claim, one workers' compensation claim, and one contract claim. The claim that I'm here to discuss is the workers' compensation claim being added to Section 4 of the bill. This is-- represents a settlement that the Attorney General's Office entered into with the plaintiff, Richard Rulla. And this settlement has been approved by the Nebraska Workers' Compensation Court in accordance with statute. Mr. Rulla filed a claim against the state after allegedly sustaining an injury while working as a Youth Security Specialist I at YRTC Kearney Pay Home. This is a full and final settlement of all of his indemnity and past medical expenses claims, but it leaves his future medical claims open. The amount of that settlement is \$125,000; \$100,000 of that has been paid previously pursuant to statute, and the remaining \$25,000 is placed in AM1354 for approval and payment from the Workers' Comp Revolving Fund. We recommend this claim be approved. And if you have any questions, I'd be happy to answer those. Otherwise, after me is DHHS general counsel Bo Botelho to discuss the contract claim being added.

IBACH: OK, good. Thank you. Are there questions from the committee? Seeing none, thank you. Hi. Welcome to Business and Labor. Please state your name and spell it for the record.

BO BOTELHO: Good afternoon, members of the Business and Labor Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, and I'm general counsel for the Department of Health and Human Services. I'm here to testify in support of AM1354 to LB282, and to discuss the contract claim being added to Section 8 of AM1354. Section 8 refers to contract claim 2019-19267 and Lancaster County claim CI 19-676 which relates to settlement entered into between the Attorney General's Office on behalf of the State in Nebraska in the Lancaster County District Court. Wipro Limited, LLC, filed suit under the State Contract Claims Act against the State of Nebraska, alleging a breach of contract, promissory estoppel, and unjust enrichment related to the contract entered into-- entered into with the Nebraska Department of Health and Human Services for the development of the Medicaid Eligibility Enrollment solution [SIC]. The state also filed counterclaims against Wipro. The total amount of the settlement was \$5.5 million payment for which shall be otherwise appropriated from agency funds. The Attorney General's Office and the Department of Health and Human Services recommend that the claim be approved. It's my understanding that

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someone from the Attorney General's office will testify to an additional indemnification claim, which I believe Phoebe just did. Thank you for the opportunity to testify today. I'm happy to answer any questions.

IBACH: Very good. Thank you very much. Are there questions from the committee? Seeing none, thank you for your time. Welcome.

MIKE HILGERS: Thank you, Madam Vice Chair, members of the Business and Labor Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I currently serve as the Nebraska Attorney General. I'm testifying in-- in favor of AM1354. I'm speaking in particular to the NPERS settlement. I'll just give the committee a little bit of context to this litigation. I think it's one of the longest and most complex civil litigation cases, if not the longest and most complex in state history. This case was filed 12 years ago by over four-- ultimately over 400 individual plaintiffs, state troopers. The alleged claims were on an alleged overwithholding of retirement contributions. The case has been in federal court. It's been in state court. There are currently seven existing cases currently filed in Lancaster County. As I mentioned, it's been 12 years. There's been thousands of pages of briefing, untold numbers of produced documents, significant cost to all parties. We've unfortunately even had a few troopers pass away during the pendency of this particular litigation. We resolved the case in AM1354 for just under \$19 million. And we appreciate this committee's support of the claims bills in the past and in LB282 specifically and we ask the committee to support this amendment. And I'd be happy to answer any questions that the committee might have.

IBACH: Thank you very much. Are there questions from the committee? Seeing none, I think we've all read about it and you're been very thorough so thank you.

MIKE HILGERS: Thank you.

IBACH: Are there any other proponents? Anyone in favor of this? If not, are there any opponents, anyone that would like to speak against this? Seeing none, is there anybody in the neutral? Any neutral position? Seeing none, that will conclude our hearing on--

HANSEN: Want to close?

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IBACH: Oh, I'm sorry. Going to waive. He's waiving. The senator will waive closing. Thank you very much. This will conclude the hearing on AM1354 to LB282.